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Secrt. II-27—40,000—27-10-52.

Development (1950) Department.

MS SERIES.

G.O. No. 3395

Dated 29th August 1950

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FOR MYSORE STATE

[Despatch Abstract.]

G.O.No. 3395/29-8-50 Acts - Madras Shops and Establishment Act, 1940 Section 34 - Deductions from the wages of persons employed in banks as insurance against loss etc. - Papers recorded

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Office of the Commissioner of Labour, Chepauk, Madras. dated 5th Nove,1949.

No.F.1.8711/48.

From.

Sri C.G. Reddi,
Commissioner of Labour, Madras.

To

The Secretary to Government,
Development Department, Fort St. George, Madras

Sir,

Sub: Madras Shops & Establishments Act-Deductions from wages of persons employed in Banks.

Ref: Government Memo No.49626 P-IV/49-4 dated 28-9-49

Some of the Banks in the Province were reported to be making deductions from the wages of their employees for payment of premia either to a fund or to an Insurance Company for insurance against loss on account of dishonesty, embezzlement etc., of their employees. Particulars of such deductions were called for from all the banks. Their replies show that they have been adopting one or other of the following measures as a safeguard against such losses.

(a) Requiring the employees to furnish cash security

(b) Requiring the employees to take out fidelity guarantee policies either paying the premia themselves or requiring the employees to pay the premia;

(c) Requiring the employees to insure their lives with insurance companies and to assign the policies to the banks so that they may have the right to forefeit the amount of the policies in the event of their sustaining a loss on account of the dishonesty of the employees;

(d) Requiring the employees to contribute to funds maintained by the Banks, the funds being utilised either for re-couping losses on account of dishonesty of the employees or for payment for insurance with insurance companies against such loss. In some cases, employees are entitled to a refund from the funds, in the shape of bonus.

Copies of the rules governing such deductions in some of the banks, which are typical, are enclosed for reference and return.

2. According to the explanation to Section 34(1) of the Madras Shops & Establishments Act, every payment made

by a person employed to the employer shall for purposes of that Act be deemed to be a deduction from wages. It would appear therefore that cash security should not be taken by the employer from the person employed under him, as deductions for cash security are not authorised under the Act.

3. Deductions from wages for contribution to a separate guarantee fund is not covered by any of the clauses of Section 34(2) and will therefore be illegal.

4. Deductions for paymentto a scheme of insurance maintained by the Indian Post Office or by an Insurance Company approved by the Provincial Government are permissible under the Act.

5. The Banks may require the employees to take out life insurance policies with approved insurance companies and to assign policies to the banks so that the amounts due on the policies may be forfeited to the banks in the event of any fraud etc., prepetrated by the employees. Where the employee cannot get his life insured he may take out a fidelity guarantee policy with an approved insurance company. Life insurance should be preferred to fidelity guarantee insurance as the insured person who is honest will get a return forthepremia for the insurance. The premia for the insurance can well be paid by the banks themselves as the insurance is for covering any loss which they may incur on account of the dis-honesty of their employees. The question whether the banks should pay the insurance premia or whether the employees, themselves should pay them is likely to come up before the All India Industrial Tribunal and will be decided by it. Pending the Tribunal's decision, the banks may, if they are not willing to pay the premia, deduct the amounts due for insurance premia from the wages of their employees.

6. I request to be informed whether I may inform the banks as in paras 3 and to 5 of this letter and require them to refund the Collections made in contravention of the

provisions of the Madras Shops and Establishments Act from 1-4-1948.

Sd/.....

for Commissioner of Labour.

-True copy-

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Extract of the rules governing such deductions in some banks.

Hyderabad State Bank, Madras. A separate guarantee fund is maintained by the Bank. Every member of the bank who is required to furnish security should, in addition to any special security that he may be required to furnish contribute to the guarantee section of the fund a fixed amount. Losses on account of the dishonesty of the employee are recouped from the fund, Contributions made to the fund are not refundable.

Canara Bank, Mangalore. Every employee should contribute 0-0-3 per rupee of his salary during the first 10 years of his service. The amounts collected are utilised to pay for insurance against embezzlement by the employees. No part of the contributions is refundable.

Comilla Bank. The Bank has taken out fidelity guarantee policies against its employees and itself pays the premia on the policies.

Canara Banking Corporation, Udipi: Employees are required either to furnish cash security or to take out life insurance policies and assign them to the bank. Premia for the first year should be paid by the employee and premia for the subsequent years will be paid by the bank by deduction from the employee's salary. The policy amount will be paid to the employee when he retires, if it is not forfeited for his

dishonestyetc.

Chartered Bank . Cashiers, shroffs and Bill Collectors are required to take out fidelity guarantee policies and pay the premia. As a matter of convenience, the premia are collected from the employees and paid to the Insurance Company.

Tellicherry Bank : One pie per rupee of salary is collected from the employees and an equal amount is contributed by the bank and credited to an embezzlement insurance fund. The contributions are not refunded.

Pand an Bank : Security deposts have been taken from most of the employees. Some who have been unable to pay in a lump have authorised the bank to deduct small amounts from their monthly salaries towards the security deposits.

Indian Overseas Bank : A separate fund is maintained by the Bank to meet the losses sustained by the bank on account of the dishonest of their employees. Employees are required to pay a specified rate of contribution every half year to the fund. They may in addition be required to pay a security deposit also. If any amount stands to the credit of the employee in the fund on his retirement, he will be entitled to a bonus from the fund.

Vijaya Commercial Bank : One rupee is collected every month from every member of the mehial staff till thedposit equals one monthH's salary of the member.

Sd/.....
for Commissioner of Labour.

-True copy-

PR.11.9

F.1.8711/48

Office of the Commissioner of Labour, Chepauk, Madras dated 6-2-1950.

From

Sri C.G. Reddi,
Commissioner of Labour, Madras.

To

The Secretary to Government,
Development Department,
Fort St. George, Madras.

Sir,

SUB:ACTS - MADRAS SHOPS & ESTABLISHMENTS ACT- Section34 Deduction from wages of persons employed in bank.

Ref: Government Memorandum No.49626/PIV/49-5, Development, dated 22-11-1949

The various funds maintained by the Imperial Bank of India are:-

(1) Bank of Madras Pension and Gratuity Fund,

(ii) The Imperial Bank of India Employees' Pension and Guarantee Fund,

(iii) The Imperial Bank of India Employees' Provident Fund, and

(iv) Head Cashiers Security Account.

Copies of the Rules relating to them are enclosed.

I find from the correspondence read in Government Order No.2547, Development, dated 18-5-1948, that the Government were not aware of the fact that deductions were being made from the wages of the employees for payment to the guarantee section of the fund or Head Cashier's Security Account. I consider that deductions for payment to the guarantee section of the fund is not justified. The exemption granted to the Bank may be restricted to the making of deductions to the Employees's Provident Fund and the Pension Section of the Employees' Pension and Guarantee Fund.

With regard to the making of deductions for insurance against loss on account of embezzlement, etc., by the employees and taking of Security Deposits from the employees, I may be permited to take action on the lines indicated in my letter F1.8711/48 dated 5-11-49.

-True copy-

EXTRACT OF LETTER D TED 17th JANUARY 1950, received from the Deputy Secretary & Treasurer (Offig.) Imperial Bank of India, Madras, addressed to the Commissioner of Labour, Madras.

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2. Our Head Cashiers have also to pay subscriptions half-yearly to an account styled "Head Cashier's Security Account" according to the ~~[illegible]~~ noted below:-

(1) Amount of standard guarantee required to be furnished by the Head Cashier.		(2) Rate of subscription(To be calculated on the amount of standard guarantee specified in column 1, subject to notes 1,2 and 3 below.
When his salary does not exceed Rs.100 per mensem.	Rs. 10,000	The same rate as the rate at which the Head Cashier subscribes to the Guarantee Section of the Employees Pension & Guarantee Fund of the Bank or at which he would be required to pay if he were a subscriber thereto.
When his salary exceeds Rs.100/- but does not exceed Rs.150 p.m.	15,000	
When his salary exceeds Rs.150 but does not exceed Rs.200 p.m.	20,000	
When his salary exceeds Rs.200/-but does not exceed Rs.250 p.m	25,000	
When his salary exceeds Rs.250/-. but does not exceed Rs.300/-p.m.	30,000	
When his salary exceeds Rs.300p.m. but does not exceed Rs.350/-p.m.	35,000	
When his salary exceeds Rs.350/- but ~~exceeds~~ does not exceed Rs.400/ p.m.	40,000	
When his salary exceeds Rs.400/- but does not exceed Rs.450/- p.m.	45,000	
When his salary exceeds Rs.450/- per mensem.	50,000	

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NOTE:

1. If the Head Cashier is guaranteed to the extent of Rs.5,000/- in the Bank's Pension & Guarantee Fund the amounts of guarantee set out in the first column are reduced by Rs.5,000/-

- 2. The amount of guarantee may also be reduced at the discretion of the Bank to theextent of any special fidelity security in cash or otherwise which the Bank may have accepted from the Head Cashier.

3. Until the salary of the Head Cashier exceeds Rs.150 per mensem the Bank will pay his subscription to the Head Cashiers' Security Account.

True copy

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Development Department

Memo No.49626 PI/48-7 dated 27-3-50.

Sub: Acts- Madras Shops and Establishments Act, 1947- Section 34- Deduction from wages of persons employed in banks.

Ref: From the C.L. No.F.1.8711/48 dated 5-11-49.
From the C.L. No.F.1.8711/4[illegible] dated 6-2-50.

The C.L. has reported that the deductions made by certain banks from the wages of their employees as insurance against loss on account of dishonesty or negligence of employees are against the provisions of the Madras Shops and Establishments Act, and has enquired whether he can inform the banks accordingly and require them to refund the collections made in contravention of the provisions of the Act from 1-4-48. The Government are not quite satisfied that it will be justified in asking all banks to discontinue such long established practice. There is also the question of asking them to rerund all deductions made since 1-4-48. These banks have branches outside this State and it may not be proper to ask them to follow one practice here and another elsewhere. As regards cash Security, even the Government may not be able to give up cash security in respect of certain posts. It appears that there does not seem to be a case for interfering with the long established practices of banks which are common to all parts of India.

- 2. No employees' organizations seem to have agitated on these issues. Even if they have a grievance against managements on account of the deductions, there an All India Tribunal now adjudicating into disputes in banks, and it would be more appropriate if these issues are taken before that Tribunal-

The Commissioner of Labour is requested to re-examine the case in the light of the above points and give his considered views on the matter.

Sd/ C.P. Gopal Menon.
Asst. Secy. to Govt.
27-3-50.

To
The C.L. Madras.

F.1. 0711/49 Office of the Commissioner of Labour,
Chepauk, Madras, dated 8-7-1950.

From

Sri. C.G. Reddi
Commissioner of Labour, Madras.

To

The Secretary to Government,
Development Department
Fort St. George, Madras.

Sir,

Sub: Madras Shops and Establishments Act
Section 34- Deductions from wages of
persons employed.

Ref; Government Memorandum No.49626 P.II/49-7
dated 27-3-50

As pointed out in paragraph 1 of the Government Memorandum, there will be several difficulties in requiring the establishments to discontinue the practice of taking security deposits and to refund the amounts already collected from 1-4-1948.

2. But the question is whether taking such security deposits can be considered legal in view of the explanation to S.34(1) of the Madras Shops and Establishments Act. For deciding this question, it is immaterial whether the organisation of employees are agitated over this issue or not. Whether the issues will be raised before the All India Tribunal is not also certain. I, therefore suggest that legal opinion may be obtained on this question and if the Government are satisfied that my view is correct, they may grant exemption under section 6 so that the explanation to section 34(1) may not apply to the persons employed in certain classes of establishments. Only those employed in well established institutions such as ~~xxnkxsxxxxsuksnnnxx~~ banks, insurance companies and co-operative societies may be granted the exemption and not those employed under petty employers.

The Chief Inspector of Factories, Bombay, states that such cases have not arisen in that State yet.

Sd/....
for Commissioner of Labour.

-True copy-

RR.11.9

Superintendent.

11/9/50

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SUMMARY

Under the explanation to section 34(1) of the Madras Shops and Establishments Act, every payment made by an employee to the employer has to be deemed to be a deduction from wages and under section 34(2) of the Act deduction from wages shall be only of the kind specified in that section. In the letter on pp.1-2 c.f. the Indian Overseas Bank has sought Government's approval for its Staff Guarantee Fund. The fund is intended to guarantee the bank against losses caused by the negligence or dishonest of employees, and contributions to the fund are made by deduction from the salary of employees. The C. of L. who was consulted on the request of the Bank, has reported that the banks are adopting one or other of the four measures mentioned below as insurance against loss on account of dishonest or negligence of employees.

(a) Requiring the employees to furnish cash security

(b) Requiring the employees to take out fidelity guarantee policies either paying the premia themselves or requiring the employees to pay the premia.

(c) Requiring the employees to insure their lives with insurance companies and to assign the policies to the banks so that they may have the right to forfeit the amount of the policies in the event of their sustaining a loss on account of the dishonesty of the employees.

(d) Requiring the employees to contribute to funds maintained by the banks, the funds being utilise either for recouping losses on account of dishonesty of the employees or for payment for insurance with insurance companies against such loss. In some cases, employees are entitled to a refund from the funds in the shape of bonus.

2. The legal position with reference to the above practices is as follows:

(a) Cash security should not be taken by the employer from the person employed under him, as deductions for cash

security are not authorised under the Act.

(b) Deductions from wages for contribution to a separate guarantee fund is not covered by any of the clauses of section 34(2) and will therefore be illegal;

(c) Deductions for payment to a scheme of insurance maintained by the Indian Post Office or by an Insurance Company approved by Provincial Government are permissable under the Act.

The C. of L. enquired whether he can explain the above legal position to the banks and inform them that the deductions made by the banks from the wages of their employees as insurance against loss on account of dishonesty or negligence of employees are against the provisions of the Act and require them to refund the collections made in contravention of the provisions of the Act from 1-4-48.

3. It was considered that the Commissioner's suggestion for asking all banks to discontinue such a long established practice is not so simple. There is also the questionof asking them to refund all deductions made since 1-4-1948. These Banks have branches outside this State and it may not be proper to ask them to follow one practice here and another elsewhere, When even the Government may not be able to give up cash security in certain posts, there is no reason to make cash securities illegal in banks, No employees organisations seem to have agitated on these issues. Even if they have a grievance against managements on account of the deductions, there is an All India Tribunal now adjudicating into the disputes in banks, and it would be more appropriate if these issues are taken before that Tribunal. It was therefore considered that there was no case for interfering with long established practices of banks which are common to all parts of India, in the name of the Madras Shops and Estts. Act. The C L. was asked to examine the case in the

light of the above suggestions and give his considered views

4. The C.L. agrees with the view that there willbe several difficulties in requiring the banks to discontinue the practice of taking security deposits and to refund the amounts already collected from 1-4-48. He states, that it is immaterial whether the organisation of employees are agitated over this issue or not and that it is not certain whether the issues will be raised before the All India Tribunal for bank disputes. He therefore suggests that if the legal position explained in para 2 above is correct, the Government may grant exemption under section 6 of the Act so that the explanation to section 34(1) of theAct may not apply to the persons employed in certain classes of establishments. Only those employed in well established institutions such as banks, insurance companies and co-operative societies may be granted the exemption and not those employed under petty employers.

5. The Legal Dept. have already pointed out that the legal position is as stated in para 2 above. They have also pointed out that it is a question of policy whether (1) the Government should exempt these deductions which have been in vogue for a long time even before the Act was enacted or (2) decline to interfere and leave it to the employees to establish their rights under the Act. before the Central Tribunal adjudicating into the disputes in Banks, that the latter course will be consistent with the Act, but that much will depend on the banking practices here as well elsewhere and the necessity for making several deductions from pay for guarantee fund, Insurance, etc.

For orders whether exemption may be granted to well established banks, insurances companies and co-operative societies so as to enable them to make deductions from the wages of their employees for insurance against loss on account of dishonesty or negligences of employees or

Whether the Govt. may decline to interfere in the matter and if so what reply may be sent to Indian Overseas Bank which has sought Govt.'s approval for its staff guarantee fund.

We may tell the Bank that Govt. do not propose to express any approval or objective of the staff guarantee fund. We need not take any action in the matter unless the issue is specifically raised the employees.

Sd/P.S.V.
14-8-50.

H.S.R.
17-8-

J.M. (L.S.)

Letter from the Indian Overseas Bank Ltd dated 17-8-50.

To: A.S.

With reference to orders above, a draft letter to the Bank and a draft endt. to the C.of L are submitted for approval. After issue, the papers may be recorded.

Sd. P.S.V.
Secy.
24-8-50

Issued as letter No.49676 P.I/49-9 dated 24-8-50.

G.O.Ms.3395 d.20-8-50

Acts Madras Shops and Establishment Act- Section 34 -Deductions from the wages of persons employed in banks as insurance against loss etc-Papers recorded.

-True copy

Superintendent

IR.11.9